HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.NO. 26282 OF 2006

DATED: 6.2.2007

Between:

K.Johnsi

.Petitioner

and

The StateBank of India, rep. by its Chief manager

...Respondent

THE HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.NO.26282 OF 2006

ORAL ORDER:

The substantial facts urged in the writ petition are not disputed as per the oral submissions made by Sri Prabhakar Sripada, the learned counsel for the respondent-Bank. The petitioner's uncle one D.Ramachandra Raju availed a loan from the respondent-Bank. Towards this purpose he created a mortgage on a property covered by sale deed No.8513 of 1982 in respect of land in Sy.No.46 and 48 of Madinaguda village, Serilingam Pally Mandal, Ranga Reddy District. The petitioner claims that the property was bequeathed to her under a will dated.05-12-1988. Sri D.Ramachandra Raju died without clearing the dues to the respondent-Bank. During his lifetime the respondent-Bank had filed O.S.No.463 of 1993 before the Court of I Additional Senior Civil Judge, Ranga Reddy for recovery of an amount of Rs.2,95,827-27 paise along with future interest and costs. A preliminary decree was passed on 04-09-1996 and the final decree on 22-06-2000. In the suit as Sri D.Ramachandra Raju had died *pendente lite* the petitioner was brought on record as his legal heir and a defendant, by the order of the Court dated.03-12-1999. After the decree, the petitioner negotiated for One Time Settlement (OTS) with the respondent; OTS was arrived at. The petitioner paid in accordance with the terms of the settlement and respondent-Bank also issued a certificate that the credit facilities

sanctioned in favour of M/S.Indian Nursery against the mortgaged property of Sri D.Ramachandra Raju were discharged and the properties relieved from the mortgage charge. This is apparent from the certificate issued by the Chief Manager of the respondent-Bank, dated.18-03-2006. Thereafter the petitioner sought return of the document in relation to the mortgaged property in the custody of the Bank. On the bank failing to return of the documents, the writ petition is filed.

Sri Prabhakar Sripada, the learned counsel for the respondent-Bank states that the Bank has no manner of entitlement to the documents in question but there are other claimants to the property who have also laid a claim for return of the documents. The Bank unable to determine which of the competing claimants are entitled to the documents, has taken no action. According to the counsel, the Bank is willing to return the documents to the petitioner on the petitioner furnishing an indemnity, indemnifying the Bank against future successful claims by others, to the documents in question. The learned counsel for the petitioner states that the petitioner is willing to furnish such as indemnity.

In view of the above developments no adjudication is called for in this writ petition.

The writ petition is accordingly disposed of with liberty to the petitioner to furnish an indemnity to the Bank as desired to cover its potential litigative risk on the return of documents to the petitioner. On furnishing such an indemnity, this Court is not in

doubt, the Bank will release the documents to the petitioner. In the circumstances there shall be no order as to costs.

GODA RAGHURAM,J

6th FEBRUARY,2007

Note:
Issue CC as soon as possible
(B/o)
***TSNR**